

CLERKS OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

5/1/2024

LAURA A. AUSTIN, CLERK
BY: s/ ARLENE LITTLE
DEPUTY CLERK

BARRY G. WHITE,

Plaintiff,

v.

CHRISTOPHER M. CUMMINGS

Defendant.

Case No. 6:24CV00021

NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT

The United States of America, pursuant to 28 U.S.C. §§ 1442(a) and 1446(a), hereby notifies the Court of the removal of this action, currently pending in the Circuit Court for the County of Rockbridge, Virginia. In support of the Notice, the United States represents to the court:

1. There is a civil action now pending in the Rockbridge County Circuit Court entitled *Barry G. White v. Christopher M. Cummings*, Case Number CL24000222-00. As evidenced by the pleadings provided to a paralegal specialist at U.S. Immigration and Customs Enforcement by email on April 11, 2024, attached hereto as Exhibit A, Plaintiff has filed a Complaint related to allegations of an automobile accident involving Christopher M. Cummings. Plaintiff filed this matter on March 18, 2024, and Defendant received notice of the Complaint on April 11, 2024 through counsel.
2. The action is pending in Rockbridge County Circuit Court, which is in the Lynchburg Division of the Western District of Virginia.
3. Christopher R. Kavanaugh, the United States Attorney for the Western District of Virginia, has certified that at the time of the conduct alleged, Cummings was acting within the scope of his employment. The Court is respectfully referred to the Certification of Scope of Employment of United States Attorney, attached hereto as Exhibit B.
4. Title 28 U.S.C. § 1442(a) provides that a civil action brought in a state court against the United States or any agency or officer thereof for or relating to any act under color of such office may be removed to the District Court of the United States for the district and division embracing the place wherein it is pending.
5. Upon removal to this Court, the action brought against Defendants in state court shall be “deemed a tort action brought against the United States” under the Federal Tort Claims Act.

Id; see also 42 U.S.C. § 233(a); 28 U.S.C. § 1346(b)(1). A motion shall separately be filed to effectuate the required substitution of the United States.

Based upon the foregoing, the Defendant Notifies the Court of his intention to remove this matter from the Rockbridge County Circuit Court to the United States District Court for the Western District of Virginia, Lynchburg Division.

**REMOVAL TO THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

This civil action is removable to this Court under 28 U.S.C. §1442. The United States of America will file a copy of this Notice of Removal with the Clerk of the Circuit Court for the County of Rockbridge, Virginia, and give Plaintiff written notice as required by 28 U.S.C. § 1446(d).

Respectfully submitted,

CHRISTOPHER R. KAVANAUGH
United States Attorney

Date: May 1, 2024

/s/ Rachel Barish Swartz

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CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2024, I caused a true copy of the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, and mailed a copy thru the United States Postal Service to the following non-CM/ECF participant:

Stephen C. Huff
CRANDALL & KATT
366 Elm Avenue, S.W.
Roanoke, VA 24016

Michelle M. Trout, Clerk
Rockbridge County Circuit Court
Rockbridge County Courthouse
20 South Randolph St., Suite 101
Lexington, VA 24450-2552

/s/ Rachel Barish Swartz

Rachel Barish Swartz
Assistant United States Attorney